

Farm Service Agency, USDA

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§§ 701.206–701.209 [Reserved]

§ 701.210 Qualifying minimum cost of restoration.

(a) FSA will establish the minimum qualifying cost of restoration, which may vary by State or region.

(b) An applicant may request a waiver of the qualifying minimum cost of restoration. The waiver request must document how failure to grant the waiver will result in environmental damage or hardship to the person or legal entity, and how the waiver will accomplish the goals of the program.

§ 701.211 Prohibition on duplicate payments.

(a) Participants are not eligible to receive funding under EFRP for land on which FSA determines that the participant has or will receive funding for the same or similar expenses under:

(1) The Emergency Conservation Program provided for in subpart B of this part;

(2) The Wetland Reserve Program (WRP) provided for in part 1467 of this title;

(3) The Emergency Wetland Reserve Program (EWRP) provided for in part 623 of this chapter;

(4) The Emergency Watershed Protection Program (EWP), provided for in part 624 of this chapter; or

(5) Any other program that covers the same or similar expenses so as to create duplicate payments, or, have the effect of creating in total, otherwise, a higher rate of financial assistance than is allowed on its own under this part.

(b) Participants who receive any duplicate funds, payments, or benefits must refund any EFRP payments received, except the Deputy Administrator may reduce the refund amount to the amount determined appropriate by the Deputy Administrator to ensure that the total amount of assistance received by the owner of the land under all programs does not exceed an amount otherwise allowed in this part.

§ 701.212 Eligible EFRP practices.

(a) Financial assistance may be offered to eligible persons or legal entities for EFRP practices to restore forest health and forest-related resources on eligible land.

(b) Practice specifications must represent the minimum level of performance needed to restore the land to the applicable FSA, NRCS, Forest Service, or State forestry standard.

§§ 701.213–701.225 [Reserved]

§ 701.226 Maximum financial assistance.

(a) In addition to other restrictions that may be applied by FSA, an EFRP participant will not receive more than 75 percent of the lesser of the participant's total actual cost or of the total allowable costs, as determined by this subpart, to perform the practice.

(b) A person, as defined in part 1400 of this title, is limited to a maximum cost-share of \$500,000 per person or legal entity, per disaster.

(c) The Deputy Administrator may waive the provisions of this section on a case by case basis to address unusually large losses. Such relief is solely at the discretion of the Deputy Administrator, and the failure to provide such relief is not subject to administrative review or appeal under parts 11 or 780 of this title.

PART 707—PAYMENTS DUE PERSONS WHO HAVE DIED, DISAPPEARED, OR HAVE BEEN DECLARED INCOMPETENT

Sec.

707.1 Applicability.

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707.3 Death.

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707.6 Death, disappearance, or incompetency of one eligible to apply for payment pursuant to the regulations in this part.

707.7 Release application.

AUTHORITY: 7 U.S.C. 1385 and 8786.

SOURCE: 30 FR 6246, May 5, 1965, unless otherwise noted.

§ 707.1 Applicability.

This part applies to all programs in title 7 of the Code of Federal Regulations which are administered by the Farm Service Agency under which payments are made to eligible program participants. This part also applies to all other programs to which this part is

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applicable by the individual program regulations.

§ 707.2 Definitions.

“Person” when relating to one who dies, disappears, or becomes incompetent, prior to receiving payment, means a person who has earned a payment in whole or in part pursuant to any of the programs to which this part is applicable. “Children” shall include legally adopted children who shall be entitled to share in any payment in the same manner and to the same extent as legitimate children of natural parents. “Brother” or “sister”, when relating to one who, pursuant to the regulations in this part, is eligible to apply for the payment which is due a person who dies, disappears, or becomes incompetent prior to the receipt of such payment, shall include brothers and sisters of the half blood who shall be considered the same as brothers and sisters of the whole blood. “Payment” means a payment by draft, check or certificate pursuant to any of the Programs to which this part is applicable. Payments shall not be considered received for the purposes of this part until such draft, check or certificate has been negotiated or used.

§ 707.3 Death.

(a) Where any person who would otherwise be eligible to receive a payment dies before the payment is received, payment may be released in accordance with this section so long as, and only if, a timely program application has been filed by the deceased before the death or filed in a timely way before or after the death by a person legally authorized to act for the deceased. Timeliness will be determined under the relevant program regulations. All program conditions for payment under the relevant program regulations must have been met for the deceased to be considered otherwise eligible for the payment. However, the payment will not be made under this section unless, in addition, a separate release application is filed in accordance with § 707.7. If these conditions are met, payment may be released without regard to the claims of creditors other than the United States, in accordance with the following order of precedence:

(1) To the administrator or executor of the deceased person’s estate.

(2) To the surviving spouse, if there is no administrator or executor and none is expected to be appointed, or if an administrator or executor was appointed but the administration of the estate is closed (i) prior to application by the administrator or executor for such payment or (ii) prior to the time when a check, draft, or certificate issued for such payment to the administrator or executor is negotiated or used.

(3) If there is no surviving spouse, to the sons and daughters in equal shares. Children of a deceased son or daughter of a deceased person shall be entitled to their parent’s share of the payment, share and share alike. If there are no surviving direct descendants of a deceased son or daughter of such deceased person, the share of the payment which otherwise would have been made to such son or daughter shall be divided equally among the surviving sons and daughters of such deceased person and the estates of any deceased sons or daughters where there are surviving direct descendants.

(4) If there is no surviving spouse and no direct descendant, payment shall be made to the father and mother of the deceased person in equal shares, or the whole thereof to the surviving father or mother.

(5) If there is no surviving spouse, no direct descendant, and no surviving parent, payment shall be made to the brothers and sisters of the deceased person in equal shares. Children of a deceased brother or sister shall be entitled to their parent’s share of the payment, share and share alike. If there are no surviving direct descendants of the deceased brother or sister of such deceased person, the share of the payment which otherwise would have been made to such brother or sister shall be divided equally among the surviving brothers and sisters of such deceased person and the estates of any deceased brothers or sisters where there are surviving direct descendants.

(6) If there is no surviving spouse, direct descendant, parent, or brothers or sisters or their descendants, the payment shall be made to the heirs-at-law in accordance with the law of the State of domicile of the deceased person.

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(b) If any person who is entitled to payment under the above order of precedence is a minor, payment of his share shall be made to his legal guardian, but if no legal guardian has been appointed payment shall be made to his natural guardian or custodian for his benefit, unless the minor's share of the payment exceeds \$1,000, in which event payment shall be made only to his legal guardian.

(c) Any payment which the deceased person could have received may be made jointly to the persons found to be entitled to such payment or shares thereof under this section or, pursuant to instructions issued by the Farm Service Agency, a separate payment may be issued to each person entitled to share in such payment.

[30 FR 6246, May 5, 1965, as amended at 75 FR 81835, Dec. 29, 2010]

§ 707.4 Disappearance.

(a) Where any person who would otherwise be eligible to receive a payment disappears before the payment is received, payment may be released in accordance with this section so long as, and only if, a timely program application has been filed by that person before the disappearance or filed timely before or after the disappearance by someone legally authorized to act for the person involved. Timeliness will be determined under the relevant program regulations. All program conditions for payment under the relevant program regulations must have been met for the person involved to be considered otherwise eligible for the payment. However, the payment will not be made unless, in addition, a separate release application is filed in accordance with § 707.7. If these conditions are met, payment may be released without regard to the claims of creditors other than the United States, in accordance with the following order of precedence:

(1) The conservator or liquidator of his estate, if one be duly appointed.

(2) The spouse.

(3) An adult son or daughter or grandchild for the benefit of his estate.

(4) The mother or father for the benefit of his estate.

(5) An adult brother or sister for the benefit of his estate.

(6) Such person as may be authorized under State law to receive payment for the benefit of his estate.

(b) A person shall be deemed to have disappeared if (1) he has been missing for a period of more than 3 months, (2) a diligent search has failed to reveal his whereabouts, and (3) such person has not communicated during such period with other persons who would be expected to have heard from him. Evidence of such disappearance must be presented to the county committee in the form of a statement executed by the person making the application for payment, setting forth the above facts, and must be substantiated by a statement from a disinterested person who was well acquainted with the person who has disappeared.

[30 FR 6246, May 5, 1965, as amended at 75 FR 81835, Dec. 29, 2010]

§ 707.5 Incompetency.

(a) Where any person who would otherwise be eligible to receive a payment is adjudged incompetent by a court of competent jurisdiction before the payment is received, payment may be released in accordance with this section so long as, and only if, a timely and binding program application has been filed by the person involved while capable or by someone legally authorized to file an application for the person involved. Timeliness is determined under the relevant program regulations. In all cases, the payment application must have been timely under the relevant program regulations and all program conditions for payment must have been met by or on behalf of the person involved. However, the payment will not be made unless, in addition, a separate release application is filed in accordance with § 707.7. If these conditions are met, payment may be released without regard to the claims of creditors other than the United States, to the guardian or committee legally appointed for the person involved. In case no guardian or committee had been appointed, payment, if for not more than \$1,000, may be released without regard to claims of creditors other than the United States, to one of the following in the following order for the benefit of the person who was the subject of the adjudication:

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- (1) The spouse.
- (2) An adult son, daughter, or grandchild.
- (3) The mother or father.
- (4) An adult brother or sister.
- (5) Such person as may be authorized under State law to receive payment for the person (see standard procedure prescribed for the respective region).

(b) In case payment is more than \$1,000, payment may be released only to such person as may be authorized under State law to receive payment for the incompetent, so long as all conditions for other payments specified in paragraph (a) of this section and elsewhere in the applicable regulations have been met. Those requirements include the filing of a proper and timely and legally authorized program application by or for the person adjudged incompetent. The release of funds under this paragraph will be made without regard to claims of creditors other than the United States unless the agency determines otherwise.

[75 FR 81836, Dec. 30, 2010]

§ 707.6 Death, disappearance, or incompetency of one eligible to apply for payment pursuant to the regulations in this part.

In case any person entitled to apply for a release of a payment pursuant to the provisions of § 707.3, § 707.4, § 707.5, or this section, dies, disappears, or is adjudged incompetent, as the case may be, after he has applied for such payment but before the payment is received, payment may be made upon proper application therefor, without regard to claims of creditors other than the United States, to the person next entitled thereto in accordance with the order of precedence set forth in § 707.3, § 707.4, or § 707.5, as the case may be.

[30 FR 6246, May 5, 1965, as amended at 75 FR 81836, Dec. 29, 2010]

§ 707.7 Release application.

No payment may be made under this part unless a proper program application was filed in accordance with the rules for the program that generated the payment. That application must have been timely and filed by someone legally authorized to act for the deceased, disappeared, or declared-incompetent person. The filer can be the

party that earned the payment themselves—such as the case of a person who filed a program application before they died—or someone legally authorized to act for the party that earned the payment. All program conditions for payment must have been met before the death, disappearance, or incompetency except for the timely filing of the application for payment by the person legally authorized to act for the party earning the payment. But, further, for the payment to be released under the rules of this part, a second application must be filed. That second application is a release application filed under this section. In particular, as to the latter, where all other conditions have been met, persons desiring to claim payment for themselves or an estate in accordance with this part 707 must do so by filing a release application on Form FSA-325, “Application for Payment of Amounts Due Persons Who Have Died, Disappeared or Have Been Declared Incompetent. If the person who died, disappeared, or was declared incompetent did not apply for payment by filing the applicable program application for payment form, such program application for payment must also be filed in accordance with applicable regulations. If the payment is made under the Naval Stores Conservation Program, Part II of the Form FSA-325 shall be executed by the local District Supervisor of the U.S. Forest Service. In connection with applications for payment under all other programs itemized in § 707.1, Form FSA-325, and program applications for payments where required, shall be filed with the FSA county office where the person who earned the payment would have been required to file his application.

[30 FR 6246, May 5, 1965, as amended at 75 FR 81836, Dec. 29, 2010]

PART 708—RECORD RETENTION REQUIREMENTS—ALL PROGRAMS

AUTHORITY: Sec. 4, 49 Stat. 164, secs. 7–17, 49 Stat. 1148, as amended; 16 U.S.C. 590d, 590g–590q.